

CMS PROPOSES THREE NATIONAL COVERAGE DETERMINATIONS TO PROTECT PATIENTS FROM PREVENTABLE SURGICAL ERRORS

The Centers for Medicare & Medicaid Services (CMS) proposed today three national coverage determinations (NCDs) to establish uniform national policies that will prevent Medicare from paying for certain serious, preventable errors in medical care. The following errors, called Never Events, being focused on by Medicare through the NCDs are identified in the National Quality Forum's (NQF's) list of Serious Reportable Events:

- " Wrong surgical or other invasive procedures performed on a patient;
- " Surgical or other invasive procedures performed on the wrong body part; and
- " Surgical or other invasive procedures performed on the wrong patient.

"These types of surgical errors can cause serious injury or death to beneficiaries and result in increased costs to Medicare due to the need to treat the consequences of the errors," said CMS Acting Administrator Kerry Weems. "The proposed national coverage policies for certain types of surgical errors are important steps for Medicare in working to reduce or eliminate their occurrence and their associated payments."

In 2002, prompted in part by the release of the 1999 Institute of Medicine report titled, "To Err is Human: Building a Safer Health System," the NQF created a list of 27 Never Events, which was expanded to 28 events in 2006.

As part of the ongoing implementation of Section 5001(c) of the Deficit Reduction Act (DRA) of 2005, CMS has addressed some of the NQF Never Events through the Hospital-Acquired Conditions (HACs) provisions in the Inpatient Prospective Payment System (IPPS) final rule for fiscal years (FY) 2008 and 2009. For discharges occurring on or after October 1, 2008, Medicare will no longer pay a hospital at a higher rate for an inpatient hospital stay if the sole reason for the enhanced payment is one of the

selected HACs, and the condition was acquired during the hospital stay. CMS is exploring how to adapt this policy to its other payment systems.

In the IPPS FY 2008 final rule, CMS selected eight conditions for the HAC list, a number of which were among the 28 Never Events listed by the NQF and include retained foreign object after surgery, air embolism, blood incompatibility, stage III & IV pressure ulcers, and falls and traumas such as electric shock and burns. In the IPPS FY 2009 final rule, CMS added manifestations of poor glycemic control, including hypoglycemic coma, to the list. Hypoglycemic coma is closely related to NQF's listing of death or serious disability associated with hypoglycemia.

CMS determined that not all conditions included on the NQF list of Never Events can be adequately addressed by the HAC payment provision and therefore determined that the NCD process was appropriate to address coverage for the three types of surgical errors cited above. Unlike the HAC provisions, which affect only payments to hospitals for inpatient stays, the final NCDs could affect payment to hospitals, physicians, and any other health care providers and suppliers involved in the erroneous surgeries.

CMS will accept comments from the public regarding the proposed coverage policies until January 1, 2009. Comments should be submitted separately for each of the NCDs. Following the close of the 30-day public comment period, CMS will issue final NCDs within 60 days.

NOTE: For more information, including information about how to submit comments on each of the proposed NCDs, please see proposed decision memos at the following addresses:

Wrong body part:

www.cms.hhs.gov/mcd/viewtrackingsheet.asp?id=222

Wrong patient:

www.cms.hhs.gov/mcd/viewtrackingsheet.asp?id=221

Wrong surgery performed on a patient:

www.cms.hhs.gov/mcd/viewtrackingsheet.asp?id=223